

The Honorable Tana Lin
United States District Judge

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KURT A. BENSHOOF, et al.,)
Plaintiff,) No. 2:24-cv-00343-TL
v.)
CITY OF SHORELINE, et al.,) SHORELINE AND KING COUNTY
Defendants.) DEFENDANTS' OPPOSITION TO
) MOTION TO STAY
)
) Noted for September 30, 2024
)

Plaintiffs Benshoof and Gage filed this lawsuit on March 11, 2024. Dkt. 14. Plaintiffs were granted in forma pauperis status. Dkt. 9, 13. Defendants King County, Deputy Akers, and Thompson (hereinafter “King County Defendants”) answered the complaint on May 31, 2024. Dkt. 27. Defendant City of Shoreline answered the complaint on July 1, 2024. Dkt. 46. Defendants Town & County Markets and Fagan filed a motion to dismiss pursuant to FRCP 12(b) that was renoted by this Court for September 30, 2024. Dkt. 43, 57. Defendant City of Shoreline and King County Defendants filed a motion to dismiss pursuant to FRCP 12(c) on August 30, 2024, which is noted for September 30, 2024. Dkt. 59.

On July 31, 2024, this Court entered an Order to Show Cause, required Gage to show cause within 14 days why she should not be dismissed for failure to prosecute and failure to comply with a court order. Dkt. 56. Gage never responded. Gage was dismissed by this Court on September 16. Dkt. 63.

**SHORELINE AND KING COUNTY DEFENDANTS'
OPPOSITION TO MOTION TO STAY
[No. 3:24-cv-00343-TL] - 1**

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1 In July, Benshoof was arrested and is now in jail in King County pending various criminal
2 charges in Seattle Municipal Court and King County Superior Court. Dkt 62. In an 11-page
3 handwritten motion citing legal authority, Benshoof has moved to stay this matter indefinitely until
4 he is released from jail. *Id.*

5 As this Court is aware, many incarcerated individuals are able to litigate their claims in
6 federal court. Benshoof's motion demonstrates that he is capable of creating documents and filing
7 them with this Court. An indefinite stay of the proceedings would be prejudicial to the defendants
8 and there is no basis to stay this lawsuit indefinitely.¹

9 *I certify that this Memorandum contains 420 words in compliance with Local Civil Rules.*

10 DATED this 19th day of September, 2024.

11 LEESA MANION (she/her)
12 King County Prosecuting Attorney

13 By: 
14 ANN SUMMERS, WSBA #21509
15 Senior Deputy Prosecuting Attorney
16 Attorneys for Defendants Shoreline & King County
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19

¹ Benshoof's allegation that undersigned counsel has a "conflict of interest" because counsel's
20 defense of Deputy Akers and Detective Thompson is a misappropriation of public funds in
21 violation of RCW 42.20.070 is frivolous. "RCW 42.20.070 applies to public officers or
22 employees who receive money on behalf or on account of the people of the state. On its face, the
23 statute applies to money, not public resources." *In re Recall of Weyrich*, ___ Wash.3d ___, 2024
WL 3977205 at *5 (Wash. Aug. 29, 2024). Moreover, "the state has a legitimate interest in
providing representation to its employees for suits arising out of the performance of their duties.
It makes no difference whether the acts by the employees are allegedly legal or illegal because
that question can never be resolved until the law suit is at an end." *Wimberley v. Lynch*, 460
F.2d 316, 317 (9th Cir. 1972).

1 **CERTIFICATE OF FILING AND SERVICE**

2 I hereby certify that on September 19, 2024, I electronically filed the foregoing document
3 with the Clerk of the Court using the CM/ECF E-filing system which will send automatic
4 notification to the following:

5 Kurt A. Benshoof
6 1716 N 128th Street
7 Shoreline, WA 98133
8 kurtbenshoof@gmail.com
9 *Pro Se Plaintiff*

10 I also hereby certify that on September 19, 2024, I sent the same via US Postal Service to
11 the following:

12 Kurt A. Benshoof
13 B/A 2024-008067
14 King County Correctional Facility
15 500 Fifth Ave.
16 Seattle, WA 98104

17 I declare under penalty of perjury under the laws of the United States of America and the
18 State of Washington that the foregoing is true and correct.

19 DATED this 19th day of September, 2024.

20 
21 RAFAEL A. MUÑOZ-CINTRON
22 Paralegal I – Litigation Section
23 King County Prosecuting Attorney's Office